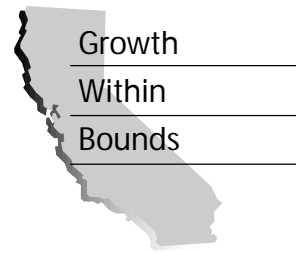


APPENDIX C

Detailed Recommendations and
Draft Statutory Changes

Chapter 3

RECOMMENDATION 3-1

The Commission recommends that school districts and LAFCOs be required to mutually notify one another of pending annexations, new formations, or other boundary changes, and that each be afforded the opportunity to comment. Notification shall mean transmittal of notice to the members and executive officers of each affected jurisdiction.

*Draft Language:**Government Code (Cortese-Knox Act) New Section 56150.5:*

Before initiating proceedings to consider any proposed reorganization which may affect school attendance for a district, whether it does so on its own motion or in response to a request, the commission shall provide written notice of the proposed action to the chair and each member of the countywide school committee, and each school superintendent whose district would be affected by the proposal. The commission shall also provide at least a 45-day period in which to receive comments from the countywide school committee or a school superintendent, before the commission acts to approve or disapprove the proposed reorganization.

Education Code (section not currently identified):

Before initiating any reorganization plan which may affect school attendance for a district, the countywide school committee shall provide written notice of the proposed action to the local agency formation commission for the affected area and shall provide at least a 45-day comment period in which to receive comments from the commission, before the committee acts to approve or to disapprove the proposed plan.

RECOMMENDATION 3-2

The Commission recommends that cities, counties, and LAFCOs be permitted to propose changes in school district boundaries to the county superintendent and/or county committee on school district reorganization, in a manner similar to the existing petition process in the Education Code, and that similar authority be accorded to school districts with regard to local government boundaries.

Draft Language:

56059. “Proposal” means a request or statement of intention made by petition or by resolution of application of a legislative body or of a

school district proposing proceedings for the change of organization or reorganization described in the request or statement of intention.

56653. (a) Whenever a local agency or a school district submits a resolution of application for a change of organization or reorganization pursuant to this part...

RECOMMENDATION 3-3

The Commission recommends that county committees on school district reorganization be required to consider, to the extent feasible (as defined in new GC §56038.5), making school district boundary changes respect city and special district boundaries.

Draft Language:

Propose changes to the Education Code both for local consideration (county committee or school superintendent) of proposed school district boundary changes (Education Code Section 35750 et seq.) and for State Board of Education consideration of proposed school district boundary changes (Education Code Section 4200 et seq.). The State Board of Education may consider handling changes approved by a county committee or school superintendent, as applicable, and boundary change disapprovals which are appealed to the Board.

RECOMMENDATION 3-4

The Commission recommends that procedures similar to those for LAFCO proceedings (i.e. notice, public hearing, opportunity for public comment, and written statement of determinations as in GC §56851 and §56852) be required for local county committee review of a proposed school district reorganization under the Education Code.

Draft Language:

Statutory language is not currently available. Drafting of specific provisions will comprise a follow-up action of the Commission.

RECOMMENDATION 3-5

The Commission recommends that all existing general legislative intent provisions (promoting orderly development, discouraging urban sprawl, preservation of open space and prime agricultural lands, efficient extension of government services) be consolidated in GC §56001 and additional legislative intent provisions relating

specifically to LAFCO be incorporated into §56301 and a new, corresponding section on LAFCO determinations.

Draft Language:

56001. The Legislature finds and declares that it is the policy of the state to encourage orderly growth and development which are essential to the social, fiscal, and economic well-being of the state. The Legislature recognizes that the logical formation and determination of local agency boundaries is an important factor in promoting orderly development and in balancing such development with sometimes competing state interests of discouraging urban sprawl, preserving open space and prime agricultural lands, and the efficient extension of government services. The Legislature further finds and declares that this policy should be effected by the logical formation and modification of the boundaries of local agencies, with a preference granted to accommodating additional growth within, or through the expansion of, the boundaries of those local agencies which can best accommodate and provide necessary governmental services in the most compact form.

The Legislature recognizes that urban population densities and intensive residential, commercial, and industrial development necessitate a broad spectrum and high level of community services and controls. The Legislature also recognizes that when areas become urbanized to the extent that they need the full range of community services, priorities are required to be established regarding the type and levels of services that the residents of an urban community need and desire; that community service priorities be established by weighing the total community service needs against the total financial resources available for securing community services; and that those community service priorities are required to reflect local circumstances, conditions, and limited financial resources. The Legislature finds and declares that a single multi-purpose governmental agency ~~rather than several limited purpose agencies,~~ is ~~in many cases better able to assess and be~~ accountable for a wide range of community service needs and financial resources and, therefore, is may be the best mechanism for establishing community service priorities, especially in urban areas. Notwithstanding, the Legislature recognizes the critical role of many limited purpose agencies, especially in rural communities. The Legislature also finds that, whether governmental services are proposed to be provided by a single purpose agency, several agencies, or a multi-purpose agency, responsibility should be given to the agency or agencies that can best provide government services.

56301. Among the purposes of a commission are ~~the discouragement of discouraging urban sprawl, preserving open space and prime agricultural lands, efficiently providing government services, and the encouragement of encouraging~~ the orderly formation and development of local agencies based upon local conditions and circumstances. One of the objects of the commission is to make studies and to obtain and furnish information which will contribute to the logical and reasonable development of local agencies in each county and to shape the development of local agencies so as to advantageously provide for the present and future needs of each county and its communities. When the formation of a new government entity is proposed, a commission shall make a determination as to whether existing agencies can feasi-

bly provide the needed service or services in a more efficient and accountable manner. If a new single-purpose agency is deemed necessary, the commission shall consider reorganization with other single-purpose agencies that provide related services.

56842.7 (NEW SECTION)

If a proposal includes the formation of a new government, the commission shall determine whether existing agencies can feasibly provide the needed service or services in a more efficient and accountable manner. If a new single-purpose agency is deemed necessary, the commission shall consider reorganization with other single-purpose agencies that provide related services.

RECOMMENDATION 3-6

The Commission recommends that, when considering any boundary change, LAFCO be required to consider the ability of the new or expanding entity to deliver the services which are the subject of the application and the adequacy of available revenues for funding such services.

Draft Language:

56841. Factors to be considered:

(j) The ability of the newly formed or receiving entity to provide the services which are the subject of the application to the area, including the sufficiency of revenues for such services following the proposed boundary change.

RECOMMENDATION 3-7

The Commission recommends that LAFCOs be required to adopt and maintain written policies, procedures, and guidelines.

Draft Language:

56375. The commission shall have all of the following powers and duties subject to any limitations upon its jurisdiction set forth in this part: (e) To review and approve or disapprove with or without amendment, wholly, partially, or conditionally, proposals for changes of organization or reorganization, based upon consistent with written policies, procedures, and guidelines adopted by the commission. If, not later than July 1, 2001, a commission has not adopted written policies and procedures, any actions taken by that commission may be voidable.

RECOMMENDATION 3-8

The Commission recommends that the LAFCO intent language of §56300 include a provision that LAFCO policies and procedures be in writing.

Draft Language:

56300. It is the intent of the Legislature that each commission *shall* establish written policies and procedures and exercise its powers pursuant to this part in a manner consistent with those policies and proce-

dures and that encourages and provides planned, well-ordered, efficient urban development patterns with appropriate consideration of preserving open-space lands within those patterns. *If, not later than July 1, 2001, a commission has not adopted written policies and procedures, any actions taken by that commission may be voidable.*

RECOMMENDATION 3-9

The Commission recommends that the written guidelines, which must be adopted by every LAFCO, should include specific criteria for all proposals before LAFCO, including examples of the forms required in order to protest LAFCO proceedings and hearings.

Draft Language:

Add a new paragraph to Section 56300.

The written policies and procedures adopted by the commission shall include forms to be used for various submittals to the commission including at a minimum a form for any protests to be filed with the commission concerning any proposed organization change.

RECOMMENDATION 3-10

The Commission recommends that a comprehensive reorganization and re-drafting of the Cortese-Knox Act be enacted. As part of the re-drafting, all obsolete provisions in the Cortese-Knox Act should be identified and repealed.

Draft Concept:

An initial outline of such a reorganization is included as Appendix D of this report. The outline and specific language will be further developed with the cooperation of the California Association of Local Agency Formation Commissions, the California State Association of Counties, the League of California Cities, the California Special Districts Association, the Association of California Water Agencies, and other interested organizations and individuals.

RECOMMENDATION 3-11

The Commission recommends that LAFCO be assigned the responsibilities of the conducting authority and be authorized to make the findings that would require the appropriate local agency to call an election, if warranted.

Draft Language:

In addition to language cited below, numerous other sections must be amended and the language must be revised as necessary to account for the conduct of elections by entities other than LAFCO. The concept approved is for LAFCO to assume all current responsibilities of the conducting authority, thereby eliminating, in many cases, an entire series of actions and procedures. Some of the major changes in responsibilities are described below, with section numbers indicated.

To implement this recommendation, Part 4 (Conducting Authority

Proceedings) will require complete revision. Some specific provisions that must be revised are the following:

57002. Within 35 days of adoption of a commission resolution making a decision, the ~~conducting authority~~ commission will provide notice and hold a public hearing within the affected jurisdiction(s), unless a hearing is waived by resolution of the commission.

57052. The ~~conducting authority~~ commission shall receive and determine value of written protests and proceed according to law.

57075-57081. The ~~conducting authority~~ commission shall, in accordance with law, order a change of organization or a reorganization, order a change subject to an election, terminate proceedings pursuant to a majority protest, or terminate proceedings at the request of the affected jurisdiction (if authorized by law).

57082. A ~~conducting authority~~ commission resolution ordering a change of organization or a reorganization shall be prepared as prescribed, with input from the affected jurisdiction.

NEW SECTION. If warranted, a commission may make a determination that an election is required, and if it does so, it shall refer the matter to the governing body for the affected jurisdiction, which in turn shall refer the matter to the appropriate local election official, who shall call and conduct an election, as prescribed.

57100-57104. REVISE LANGUAGE TO REFLECT THE COMMISSION RATHER THAN THE CONDUCTING AUTHORITY.

57175-57179. The ~~conducting authority~~ commission shall adopt a resolution, as appropriate, regarding the results of the election.

57200. This provision (resolution sent to executive officer for review and verification of conformity with LAFCO approval) would be unnecessary, as LAFCO would be the “conducting authority.”

57201-57204. The certificate of completion and statement of boundary change would be issued, as specified in current law.

RECOMMENDATION 3-12

The Commission recommends that the LAFCO approval expiration date refer to completion of the entire annexation process instead of just the conducting authority proceeding and, where a final map is required as an annexation condition, the approval life be the same as that of the tentative tract map.

Draft Language:

57001. ~~If the conducting authority all parties to a change of organization or reorganization does do not complete a proceeding within one year after the commission approves a proposal for that proceeding, the proceeding shall be deemed abandoned unless prior to the expiration of that year the commission authorizes an extension of time for that completion. Such extension may be for any period deemed rea-~~

sonable to the commission for completion of necessary prerequisite actions by any party. The inability of the conducting authority any party to complete a proceeding because of the order or decree of a court of competent jurisdiction temporarily enjoining or restraining the proceedings shall not be deemed a failure of completion and the one-year period shall be tolled for the time that order or decree is in effect.

RECOMMENDATION 3-13

The Commission recommends that the two current exceptions allowing unilateral termination of proceedings by cities (for detachments) and special districts (for annexations) be deleted, but that great weight be given to any objections by an affected city or district.

Draft Language:

~~57079. (a) Notwithstanding Sections 57075 and 57078, if the proposed change of organization is a city detachment, the conducting authority, not more than 30 days after the conclusion of the hearing, may by resolution terminate the detachment proceedings.~~

~~(b) Notwithstanding Sections 57075, 57077, and 57078, if a proposed reorganization includes the detachment of territory from any city, the conducting authority, not more than 30 days after conclusion of the hearing, shall terminate the proceeding if a resolution or written protest against the reorganization is filed prior to the conclusion of the hearing by any city from which any portion of the territory of the city would be detached or removed pursuant to the reorganization.~~

~~(c) This section shall not apply to a special reorganization.~~

57079.5. (a) Notwithstanding Sections 57075 and 57076, if the proposed change of organization is a city detachment or district annexation, factors to be considered by the conducting authority commission shall include all of the following:

(1) Whether the proposed annexation will be for the interest of landowners or present or future inhabitants within the district and within the territory proposed to be annexed to the district.

(2) The commission's resolution making determinations.

(3) Any factors which may be considered by the commission as provided in Section 56841.

(4) Any resolution objecting to the action which may be filed by an affected agency.

~~(4) (5) Any other matters which the conducting authority commission deems material.~~

(b) The commission must give great weight to any resolution objecting to the action which is filed by a city or a district. The commission's consideration shall be based only on financial or related concerns expressed in the protest. Except for findings regarding the value of written protests, the conducting authority commission is not required to make any express findings concerning any of the factors considered by the conducting authority commission.

~~(b) The conducting authority for a district annexation, not more than 30 days after the conclusion of the hearing, shall adopt a resolution and take one of the following actions:~~

~~(1) Disapprove the proposed annexation.~~

~~(2) Terminate the proceedings as provided in Section 57075 or 57076.~~

~~(3) Order the annexation as provided in Section 57075 or 57076.~~

~~(4) Order the proposed annexation subject to an election.~~

RECOMMENDATION 3-14

The Commission recommends that a LAFCO be permitted to establish criteria for filing a request for reconsideration.

Draft Language:

56857. (a) When a commission has adopted a resolution making determinations, any ~~Any~~ person or affected agency may file a written request with the executive officer requesting amendments to or reconsideration of ~~the any resolution adopted by the commission making determinations.~~ The request shall state the specific modification to the resolution being requested and shall state what new or different facts which could not have been presented previously, or applicable new law, are claimed to warrant the reconsideration.

(b) Notwithstanding Section 56106, the deadlines set by this section are mandatory. The person or agency shall file the written request within 30 days of the adoption of the initial or superseding resolution by the commission making determinations ~~or prior to the adoption of a resolution by the conducting authority pursuant to Chapter 4 (commencing with Section 57075), whichever is earlier.~~ If no person or agency files a timely request, the commission shall not take any action pursuant to this section.

RECOMMENDATION 3-15

The Commission recommends adding a new definition of "feasible," consistent with the definition used in the CEQA Guidelines. This word is used in several places in Cortese-Knox, but is currently not defined. The Commission's intent is that this recommended language be construed consistent with existing CEQA case law.

Draft Language:

56038.5. "Feasible" means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, legal, social, and technological factors.

RECOMMENDATION 3-16

The Commission recommends that prejudicial abuse of discretion, as referenced in §56107, be amended to provide clarification, in light of recent court rulings on this subject, that in any action or proceeding to attack, review, set aside, void, or annul a determination by a public agency on grounds of noncompliance with the Cortese-Knox Act, the inquiry shall extend only to whether there was a prejudicial abuse of discretion.

Draft Language:

56107. (a) This division shall be liberally construed to effectuate its purposes. No change of organization or reorganization ordered under this division and no resolution adopted by the commission making determinations upon a proposal shall be invalidated because of any defect, error, irregularity, or omission in any act, determination, or procedure which does not adversely and substantially affect the rights of any person, city, county, district, the state, or any agency or subdivision of the state.

(b) All determinations made by a commission under, and pursuant to, this division shall be final and conclusive in the absence of fraud or prejudicial abuse of discretion.

(c) In any action or proceeding to attack, review, set aside, void or annul a determination by a public agency on grounds of noncompliance with this division, the inquiry shall extend only to whether there was a prejudicial abuse of discretion. Prejudicial abuse of discretion is established if the court finds that the agency has not proceeded in a manner required by law or if the ~~any~~ determination or decision of a ~~commission or a legislative body~~ is not supported by substantial evidence in light of the whole record.

RECOMMENDATION 3-17

The Commission recommends that a technical change be made to §56334 to give local flexibility to the effective date of member appointments. The provision should allow that the length of the term of office would not be extended more than once for any individual member.

Draft Language:

56334. The term of office of each member shall be four years and until the appointment and qualification of his or her successor. Upon enlargement of the commission by two members, as provided in Section 56332, the new members first appointed to represent independent special districts shall classify themselves by lot so that the expiration date of the term of office of one new member coincides with the existing member who holds the office represented by the original two-year term on the commission and of the other new member coincides with the existing member who holds the office represented by the original four-year term on the commission. The body which originally appointed a member whose term has expired shall appoint his or her successor for a full term of four years. Any member may be removed at any time and without cause by the body appointing that member. The expiration date of the term of office of each member shall be the first Monday in May in the year in which the term of the member expires, unless procedures adopted by the commission specify an alternate date to apply uniformly to all members; provided, however, that the length of a term of office shall not be extended more than once. Any vacancy in the membership of the commission shall be filled for the unexpired term by appointment by the body, which originally appointed the member whose office has become vacant.

RECOMMENDATION 3-18

The Commission recommends that a uniform LAFCO member selection procedure be adopted, to apply in all counties except the four

counties having special statutory arrangements (Los Angeles, San Diego, Sacramento, and Santa Clara), which should remain unchanged. The procedure should be as follows: 2 selected by the county, 2 selected by the cities (except in counties having no cities), 2 selected by special districts (if requested), and 1 public member selected by the others. The selection of the public member should be subject to the affirmative vote of at least one of the representatives selected by each of the three appointing authorities.

Draft Language:

56325. There is hereby continued in existence in each county a local agency formation commission. Except as otherwise provided in this chapter, the commission shall consist of ~~five~~ members selected as follows:

(f) ~~Two representing the county,~~ appointed by the board of supervisors from their own membership. The board of supervisors shall appoint a third supervisor who shall be an alternate member of the commission. The alternate member may serve and vote in place of any supervisor on the commission who is absent or who disqualifies himself or herself from participating in a meeting of the commission. If the office of a regular county member becomes vacant, the alternate member may serve and vote in place of the former regular county member until the appointment and qualification of a regular county member to fill the vacancy.

(g) ~~Two representing~~ selected by the cities in the county, each of whom shall be a ~~city officer~~ mayor or council member, appointed by the city selection committee. The city selection committee shall also designate one alternate member who shall be appointed and serve pursuant to Section 56335. The alternate shall also be a mayor or council member. The city selection committee is encouraged to select members to fairly represent the diversity of the cities in the county, with respect to population and geography.

(h) ~~Two presiding officers or members of legislative bodies of independent special districts selected by the independent special district selection committee pursuant to Section 56332.~~ The independent special district selection committee shall also designate a presiding officer or member of the legislative body of an independent special district as an alternate member who shall be appointed and serve pursuant to Section 56332. The independent special district selection committee is encouraged to make selections that fairly represent the diversity of the independent special districts in the county, with respect to population and geography.

(i) One representing the general public appointed by the other ~~four~~ members of the commission. The other ~~four~~ members of the commission may also designate one alternate member who shall be appointed and serve pursuant to Section 56331. Selection of the public member and alternate public member shall be subject to the affirmative vote of at least one of the members selected by each of the other appointing authorities.

56330—~~If there is only one city in the county, the commission shall consist of five members, selected as follows:~~

~~—(a) Two representing the county, appointed by the board of supervisors from their own membership. The board of supervisors shall ap-~~

~~point a third supervisor who is an alternate member of the commission. The alternate member may serve and vote in place of any supervisor on the commission who is absent or who disqualifies himself or herself from participating in a meeting of the commission.~~

~~—If the office of the regular county member becomes vacant, the alternate member may serve and vote in place of the former regular county member until the appointment and qualification of a regular county member to fill the vacancy.~~

~~—(b) One representing the city, who is a city officer, appointed by the legislative body of the city. The legislative body of the city shall also designate one alternate member who shall serve and vote in the absence or disqualification of the regular appointed city representative. If the office of the regular city member becomes vacant, the alternate city member may serve and vote in place of the former regular city member until the appointment and qualification of a regular city member to fill the vacancy.~~

~~—(c) Two representing the general public appointed by the other three members of the commission.~~

RECOMMENDATION 3-19

The Commission recommends that a provision be added to the Cortese-Knox Act emphasizing that the role of LAFCO commissioners is to act in the best interest of the public as a whole and not solely in the interests of their respective appointing authority.

Draft Language:

56325.1. While serving on the commission, all members shall exercise their independent judgment on behalf of the interests of the residents and property owners of the entire county in furthering the purposes of this division. Any member appointed on behalf of local governments shall represent the interests of the public as a whole and not solely the interests of the appointing authority.

RECOMMENDATION 3-20

The Commission recommends that LAFCO select its own executive officer and counsel. It may nevertheless opt to use staff provided by the county or another public or private entity. The Commission further recommends that conflict of interest provisions be specified for LAFCO staff.

Draft Language:

Section 56380 of the Government Code is repealed.

Section 56380 is added to the Government Code, to read:

56380. The commission shall make its own provision for necessary quarters, equipment, and supplies, as well as personnel. The commission may choose to contract with any ~~local public agency or private party~~ for personnel and facilities.

56384. (a) The commission ~~may~~ shall appoint an executive officer who shall conduct and perform the day-to-day business of the com-

mission. If the executive officer is subject to a conflict of interest on a matter before the commission, the commission shall appoint an alternate executive officer. The commission may recover its costs by charging fees pursuant to Section 56383.

(b) The commission ~~may~~ shall appoint legal counsel to advise it. If the legal counsel for the commission is subject to a conflict of interest on a matter before the commission, the commission shall appoint alternate legal counsel to advise it. The commission may recover its costs by charging fees pursuant to Section 56383.

(c) The commission may appoint such staff as it deems appropriate. If staff for the commission is subject to a conflict of interest on a matter before the commission, the commission shall appoint alternate staff to assist it. The commission may recover its costs by charging fees pursuant to Section 56383.

(d) For purposes of this section the term “conflict of interest” shall be defined as it is for the purpose of the Political Reform Act of 1974 and shall also include matters proscribed by the provisions of Government Code section 1090 et seq.

RECOMMENDATION 3-21

The Commission recommends revisions to the definition of “Executive Officer” in conformance with subsequent recommendations on LAFCO staff independence.

Draft Language:

56038. “Executive officer” means the executive officer appointed by a commission, ~~or if none has been appointed, then the county official acting as the executive officer for the commission in accordance with Section 56384.~~

RECOMMENDATION 3-22

The Commission recommends that proponents of reorganization actions be required to report campaign contributions in the same manner that local initiative proponents are required to report.

Draft Language:

56700.1. [NEW] Expenditures for political purposes related to an organization or reorganization proposal which has been submitted to a commission, and contributions in support of or in opposition to such measures, shall be disclosed and reported to the same extent and subject to the same requirements as provided for local initiative measures to be presented to the electorate.

RECOMMENDATION 3-23

The Commission recommends that disclosure requirements be adopted regarding efforts to lobby LAFCO or influence a LAFCO decision or decisions, consistent with requirements for State appointed boards.

Draft Language:

Add a new paragraph to Section 56300:

The written policies and procedures adopted by the commission shall include lobbying disclosure and reporting requirements which are consistent with the provisions of the Political Reform Act of 1974; provided, however, that nothing herein shall preclude the commission from adopting such additional requirements for disclosure and reporting of lobbying as it finds are appropriate for the jurisdiction.

RECOMMENDATION 3-24

The Commission recommends that LAFCO costs be apportioned among all the entities selecting members to the commission.

Draft Language:

Section 56381 of the Government Code is amended, to read:

56381. On or before the 10th day of ~~June~~ May, the commission shall prepare and transmit to the board of supervisors, to the city selection committee established in each county pursuant to Article 11 (commencing with Section 50270) of Chapter 1 of Part 1 of Division 1, to the independent special district selection committee established pursuant to Section 56332, and to all affected local agencies, and to the members and executive officers of each board represented on the selection committees an estimate of the amount of money needed for the purposes prescribed by Section 56380 during the following fiscal year. The board of supervisors, the city selection committee, and the independent special district selection committee shall provide for the use of the commission during that fiscal year not less than the amount of money equal to any one of the following:

(a) The amount fixed by the commission.

(b) The amount appropriated received by the commission from the county, cities, and special districts in the prior fiscal year increased by the same percentage as the appropriations limit of the county for that fiscal year will be increased from the prior fiscal year.

(c) The amount determined in subdivision (b) plus any additional amount the board of supervisors, the cities, and the special districts deems necessary.

The county auditor shall audit and allow or reject all claims for expenditures for ~~county~~ commission charges incurred pursuant to this chapter in lieu of, and with the same effect as, allowance or rejection of claims by the board of supervisors.

Section 56381.5 is added to the Government Code, to read:

56381.5. (a) The commission shall adopt annually, following a noticed public hearing, a proposed budget by May 1 and a final budget by June 15. The commission shall transmit its proposed and final budgets to the board of supervisors, to the city selection committee established in each county pursuant to Article 11 (commencing with Section 50270) of Chapter 1 of Part 1 of Division 1, and to the independent special district selection committee established pursuant to Section 56332. If the independent special district selection committee conducts its business by mail pursuant to subdivision (d) of Section 56332, the commission shall notify by mail each independent special district in the county that the proposed or final budget, as the case may be, is available. The commission shall mail a copy of the proposed or final budget to any city or special district making a request

by mail for a copy.

(b) After a public hearing, consideration of comments, and adoption of a final budget by the commission pursuant to subdivision (a), the auditor shall apportion the net operating expenses of a commission in the following manner:

(1) In counties in which there is special district representation on the commission, the county, cities, and special districts shall each provide a one-third share of the commission's operational costs. The cities' share shall be apportioned in proportion to each city's total operational budget, as reported in the most recent edition of the Cities Annual Report published by the Controller, as a percentage of the combined city operational budgets within a county, or by an alternative method approved by a majority of cities representing the majority of the combined cities' populations. The special districts' share shall be apportioned in a similar manner according to each district's operational budget, as reported in the most recent edition of the "Financial Transactions Concerning Special Districts" published by the Controller, or by an alternative method approved by a majority of the agencies, representing a majority of their combined populations. For the purposes of fulfilling the requirement of this section, a multi-county special district shall be required to pay its apportionment in its principal county. It is the intent of the Legislature that no single district or class or type of district shall bear a disproportionate amount of the district share of costs.

(2) In counties in which there is no special district representation on the commission, the county and its cities shall each provide a one-half share of the commission's operational costs. The cities' share shall be apportioned in the manner described in paragraph (1).

(3) Instead of determining apportionment pursuant to paragraph (1) or (2), any alternative method of apportionment of the net operating expenses of the commission may be used if approved by a majority vote of each of the following: the board of supervisors; a majority of the cities representing a majority of the total population of cities in the county; and the special districts representing a majority of the total population of special districts in the county.

(c) After apportioning the costs as required in subdivision (b), the auditor shall request payment from the board of supervisors and from each city and independent special district no later than July 1 of each year for the amount that entity owes and the actual administrative costs incurred by the auditor in apportioning costs and requesting payment from each entity. If the county, a city, or an independent special district does not remit its required payment within 60 days, the auditor may collect an equivalent amount from any tax, benefit, assessment, or fee revenue owed to the city or district, provided that the revenue stream is not pledged to debt repayment. The auditor shall provide written notice to the county, city, or district to explain any collection action, including the source of revenue taken. Any expenses incurred by the commission or the auditor in collecting late payments or successfully challenging nonpayment shall be added to the payment owed to the commission. Between the beginning of the fiscal year and the time the auditor receives payment from each affected city and district, the board of supervisors shall transmit funds to the commission sufficient to cover the first two months of the commission's operating expenses as specified by the commission. When the city and district payments are received by the commission, the county's portion of the commission's annual operating expenses shall be credited

with funds already received from the county. If at the end of the fiscal year the commission has funds in excess of what it needs, the commission may retain those funds and calculate them into the following fiscal year's budget. If during the fiscal year the commission is without adequate funds to operate, the board of supervisors may loan the commission funds and recover those funds in the commission's budget for the following fiscal year.

Chapter 4

RECOMMENDATION 4-1

The Commission recommends that uniform requirements be established for petitions to initiate a change in organization or reorganization. Currently, the percentages of voter or landowner signatures required for types of proposed actions varies. It is recommended that the percentage of signatures required for incorporations, detachments, and disincorporations, be uniformly established at 25%, that the percentage required for dissolutions be uniformly established at 10%, and that the percentage required for annexations, consolidations, and mergers be uniformly established at 5%. When a proposal includes one or more changes of organization, the higher petition threshold should apply. Broadly speaking, the higher percentage would be for actions that increase governmental fragmentation while the lower percentage would be for actions that reduce fragmentation.

Draft Concept:

Figure C-1 is a listing of affected section numbers and proposed changes of percentages required for voter/landowner initiated actions.

RECOMMENDATION 4-2

The Commission recommends that proponents of a change in organization (e.g., incorporation or annexation) be required to file a notice with LAFCO of their intention to circulate a petition. Under current law, the first required notice to LAFCO is the actual filing of all petition signatures, which initiates LAFCO's certification of signatures and commencement of procedures. A provision similar to this proposal already exists for large cities in Los Angeles County (§56700.5).

Draft Language:

56700.3. [NEW] (a) Before circulating any petition for change of organization, the proponent shall file with the executive officer a notice of intention which shall include the name and mailing address of the proponent and a written statement, not to exceed 500 words in length, setting forth the reasons for the proposal. The notice shall be signed by a representative of the proponent, and shall be in substantially the following form:

Notice of Intent to Circulate Petition

Notice is hereby given of the intention to circulate a petition proposing

to. The reasons for the proposal are:
(b) After the filing required pursuant to subdivision (a), the petition may be circulated for signatures.
(c) Upon receiving such notice, the executive officer shall notify any affected jurisdictions.

RECOMMENDATION 4-3

The Commission recommends that the cost of verifying petition signatures for a citizen-initiated incorporation, special reorganization, or other change of organization be considered a governmental cost in the same manner as a local initiative petition covered under the provisions of the Elections Code.

Draft Language:

Amend Government Code Section 56706 and add a new subsection (d) to Section 56383:

56706. (a) Within 30 days after the date of receiving a petition, the executive officer shall, ~~if any processing fee established pursuant to Section 56383 has been paid,~~ cause the petition to be examined by the county elections official, in accordance with sections 9113-9115 of the Elections Code and shall prepare a certificate of sufficiency indicating whether the petition is signed by the requisite number of signers. (b) (1) Except as provided in paragraph (2), if the certificate of the executive officer shows the petition to be insufficient, the executive officer shall immediately give notice by certified mail of the insufficiency to the chief petitioners, if any. That mailed notice shall state in what amount the petition is insufficient. Within 15 days after the date of the notice of insufficiency, a supplemental petition bearing additional signatures may be filed with the executive officer.

(2) Notwithstanding paragraph (1), the proponents of the petition may, at their option, collect signatures for an additional 15 days immediately following the statutory period allowed for collecting signatures without waiting for notice of insufficiency. Any proponent choosing to exercise this option may not file a supplemental petition as provided in paragraph (1).

(c) Within 10 days after the date of filing a supplemental petition, the executive officer shall examine the supplemental petition and certify in writing the results of his or her examination.

(d) A certificate of sufficiency shall be signed by the executive officer and dated. That certificate shall also state the minimum signature requirements for a sufficient petition and show the results of the executive officer's examination. The executive officer shall mail a copy of the certificate of sufficiency to the chief petitioners, if any.

56383 (d). The signatures on a petition submitted to the commission shall be verified by the election officials for the jurisdiction in which the petition seeks action and the costs of verification shall be provided for in the same manner and by the same agencies which bear the costs of verifying signatures for an initiative petition in the same jurisdiction.

The relevant provision of the Elections Code is as follows:

9113. The petition shall be filed by the proponents, or by any person

or persons authorized in writing by the proponents. All sections of the petition shall be filed at one time. Any sections of the petition not so filed shall be void for all purposes. Once filed, no petition section shall be amended except by order of a court of competent jurisdiction. When the petition is filed, the county elections official shall determine the total number of signatures affixed to the petition. If, from this examination, the county elections official determines that the

number of signatures, prima facie, equals or is in excess of the minimum number of signatures required, the county elections official shall examine the petition in accordance with Section 9114 or 9115. If, from this examination, the county elections official determines that the number of signatures, prima facie, does not equal or exceed the minimum number of signatures required, no further action shall be taken.

Fig. C-1
Recommended Voter/Land Owner Petition Requirements
to Initiate Organization or Reorganization Proposals

		Current Requirement			
<i>Gov Code Sec No</i>	<i>Description of Petition</i>	<i>Registered Voters</i>	<i>Number of Owners</i>	<i>A. V. of Land</i>	<i>Proposed Change</i>
56750	Incorporation of a city	25%	25%	25%	No change
56751	Disincorporation of a city	25%			No change
56752	Consolidation of two or more cities	20%			5%
56753	Annexation to a city	5%	5%	5%	No change
56753 (b)	Annexation to a city of more than 100,000 in Los Angeles County	8%	8%	8%	5%
56754	Detachment from a city	20%	20%		25%
56755 (a)	Annexation to registered voter district	5%	5%	5%	No change
56755 (a)	Detachment from registered voter district	5%	5%	5%	25%
56755 (b)	Annexation to a landowner-voter district		5%	5%	No change
56755 (b)	Detachment from a landowner-voter district		5%	5%	25%
56757 (a)	Consolidation of registered voter districts	5%			No change
56757 (b)	Consolidation of landowner-voter districts		5%	5%	No change
56758 (a)	Dissolution of a resident voter district	5%	5%	5%	10%
56758 (b)	Dissolution of a landowner-voter district		5%	5%	10%
56760 (a)	Merger of a district which overlaps a city or establishment of the district as a subsidiary district	10%			5%
56760 (b)	Merger of subsidiary landowner-voter district		10%	10%	5%

RECOMMENDATION 4-4

The Commission recommends eliminating the term “Chief Petitioner” and redefining the term “Proponent” to include responsibilities of the chief petitioner. This will eliminate confusion, as the terms are used interchangeably, and will align petitioning procedures in the Act with those included in the Elections Code for other types of petitions. Changes are also proposed separately in provisions governing Petitions and Elections.

Draft Language:

56022. “Chief petitioners” means any persons designated in a petition for the purpose of receiving any notice authorized or required to be given to those persons.

56068. “Proponent” means the person or persons who file a notice of intention to circulate a petition with the executive officer ~~any person intending to circulate, or cause the circulation of, any petition.~~

RECOMMENDATION 4-5

The Commission recommends that the Cortese-Knox Act be amended to require use of the most recent assessment information available for purposes of mailing notices to property owners.

Draft Language:

Sections 56048, 56157, 56708, and 56710 should be amended with substantially the same language as indicated for Section 56048(a)(1):

(1) Any person shown as the owner of land on the ~~last equalized assessment roll~~ most recent assessment roll being prepared by the county at the time the conducting authority adopts a resolution of application except where that person is no longer the owner. Where that person is no longer the owner, the landowner or owner of land is any person entitled to be shown as owner of land on the next assessment roll.

RECOMMENDATION 4-6

The Commission recommends that the time for gathering protests to an annexation be extended from 15 days to 30 days.

Draft Language:

Amend the Cortese-Knox Act as follows:

56154. If the published notice is a notice of a hearing, publication of the notice shall be commenced at least ~~15~~ 30 days prior to the date specified in the notice for the hearing.

56159. Posted notice shall remain posted for not less than five days. If the posted notice is notice of a hearing, posting shall be commenced at least ~~15~~ 30 days prior to the date specified in the notice for hearing and shall continue to the time of the hearing.

RECOMMENDATION 4-7

The Commission recommends that, where annexation is proposed of two or more “bundled” non-contiguous inhabited segments, a protest from one must be considered separately if the segment has a population of more than 500. This provision would not apply to island annexations authorized under AB 1555.

Draft Language:

Add a new section 57078.5, as follows:

57078. In the case of any reorganization or change of organization, a majority protest shall be deemed to exist and the proposed change of organization or reorganization shall be abandoned if the conducting authority finds that written protests filed and not withdrawn prior to the conclusion of the hearing represent any of the following:

(a) In the case of uninhabited territory, landowners owning 50 percent or more of the assessed value of the land within the territory.

(b) In the case of inhabited territory, 50 percent or more of the voters residing in the territory.

(c) In the case of a landowner-voter district, 50 percent or more of the voting power of the voters entitled to vote as a result of owning land within the district.

57078.5. If a proposed annexation consists of two or more segments and any one segment has a population of more than 500 inhabitants, any protest filed pursuant to section 57078 must be accounted separately for that segment, unless the annexation is proposed pursuant to subsection (d) of section 56375.

RECOMMENDATION 4-8

The Commission recommends that LAFCOs be given ongoing authority to authorize annexation of non-contiguous territory to a city where the territory is a state correctional facility. The Legislature routinely authorizes such annexations, with LAFCO approval. Generic language would obviate the need to pass special legislation and allow LAFCOs to establish processes to determine how and when such annexations should occur.

Draft Language:

The following proposed new language would replace existing code Sections 56111.1, 56111.6 – 56111.14, which would be repealed:

56111.2. (a) Notwithstanding 56110, upon approval of the commission any city may annex noncontiguous territory which constitutes a state correctional facility or a state correctional training facility. If after the completion of the annexation the State of California sells that territory or any part thereof, all of that territory which is no longer owned by the state shall cease to be a part of the city which annexed the territory.

(b) If territory is annexed pursuant to this section, the city may not annex any territory not owned by the State of California and not contiguous to the city although that territory is contiguous to the territory annexed pursuant to this section.

(c) When territory ceases to be part of the city pursuant to this section, the legislative body of the city shall adopt a resolution confirming the detachment of that territory from the city. The resolution shall describe the detached territory and shall be accompanied by a map indicating the territory. Immediately upon adoption of the resolution, the city clerk shall make any filing provided for by Chapter 8 (commencing with Section 57200) of Part 4 of Division 3.

(d) If territory annexed pursuant to this section becomes contiguous to the city, the limitations imposed by this section shall cease to apply.

(e) A city may enter into an agreement with any other city under which the city apportions any increase in state subventions resulting from the annexation of territory pursuant to this section.

Language left unchanged: The following code section is the only one of the exceptions allowed which does not apply to a state correctional facility, and would therefore, be left in place:

56111.5. (a) Notwithstanding Section 56110, upon approval of the commission a city may annex noncontiguous territory not exceeding 3,100 acres in area, which is located in the same county as that in which the city is situated, and which is owned by the city and is being used for municipal water purposes at the time preliminary proceedings are initiated pursuant to Part 3 (commencing with § 56650). If, after the completion of the annexation, the city sells that territory or any part thereof, all of that territory which is no longer owned by the city shall cease to be a part of the city.

(b) If territory is annexed pursuant to this section, the annexing city may not annex any territory not owned by it and not contiguous to it although that territory is contiguous to the territory annexed pursuant to this section.

(c) When territory ceases to be part of a city pursuant to this section, the legislative body of the city shall adopt a resolution confirming the detachment of that territory from the city. The resolution shall describe the detached territory and shall be accompanied by a map indicating the territory. Immediately upon adoption of the resolution, the city clerk shall make any filing provided for by Chapter 8 (commencing with Section 57200) of Part 4.

(d) If territory annexed to a city pursuant to this section becomes contiguous to the city, the limitations imposed by this section shall cease to apply.

(e) If territory is annexed pursuant to this section, it shall be used only for municipal water purposes. The city may, however, enter into agreements to lease the land for timber production or grazing by animals. If the territory is used by the city for any other purpose at any time, it shall cease to be a part of the city.

(f) This section applies only to the City of Willits.

RECOMMENDATION 4-9

The Commission recommends that a LAFCO be authorized to address densities and in-fill when processing annexation requests of a city, as a specified factor to be considered in a LAFCO action.

Draft Language:

Amend the Cortese-Knox Act, as indicated:

56841. Factors to be considered in the review of a proposal shall include, but not be limited to, all of the following:

(a) Population, population density; land area and land use; extent of in-fill needs and opportunities; per capita assessed valuation; topography, natural boundaries, and drainage basins; proximity to other populated areas; the likelihood of significant growth in the area, and in adjacent incorporated and unincorporated areas, during the next 10 years.

56652. Each application shall be in the form as the commission may prescribe and shall contain all of the following information:

(a) A petition or resolution of application initiating the proposal.

(b) A statement of the nature of each proposal.

(c) A map and description, acceptable to the executive officer, of the boundaries of the subject territory for each proposed change of organization or reorganization.

(d) Any data and information as may be required by any regulation of the commission.

(e) Steps taken to increase density within existing territory.

(ef) Any additional data and information, as may be required by the executive officer, pertaining to any of the matters or factors which may be considered by the commission.

(fg) The names of the officers or persons, not to exceed three in number, who are to be furnished with copies of the report by the executive officer and who are to be given mailed notice of the hearing.

RECOMMENDATION 4-10

The Commission recommends that pre-zoning be required for territory proposed to be annexed to a city. The implementing plan and ordinances must remain in effect for five years following the annexation unless the legislative body makes a finding that a change is necessary to protect private property rights or public health or safety.

Draft Language:

56375. The commission shall have all of the following powers and duties subject to any limitations upon its jurisdiction set forth in this part:

(a) To review and approve or disapprove with or without amendment, wholly, partially, or conditionally, proposals for changes of organization or reorganization

. . . A commission shall not impose any conditions that would directly regulate land use density or intensity, property development, or subdivision requirements. When the development purposes are not made known to the annexing city, the annexation shall be reviewed on the basis of the adopted plans and policies of the annexing city or county. ~~This paragraph does not prohibit a~~ A commission ~~from requiring~~ shall require, as a condition to annexation, that a city pre-zone the territory to be annexed. However, the commission shall not specify how, or in what manner, the territory shall be pre-zoned. The decision of the commission shall be based upon the general plan and pre-zoning of the city.

PROPOSED NEW SECTION 56375(e1) to follow subsection (e) and precede (f):

56375(e1). To approve the annexation of unincorporated territory consistent with the planned and probable use of the property based upon the review of general plan and pre-zoning designations. No subsequent change may be made to the general plan for the annexed territory or zoning that is not in conformance to the pre-zoning designations for a period of five years after the completion of the annexation, unless the legislative body for the city makes a finding at a public hearing that such change is necessary to protect private property rights or to protect the health or safety of the public.

A compatible change will be required to State planning & zoning law.

RECOMMENDATION 4-11

The Commission recommends that the Office of Planning and Research, in consultation with the State Controller, prepare guidelines for the preparation of a comprehensive fiscal analysis, to ensure consistent methods and criteria.

Draft Language:

Add a new section to the Government Code, as follows:
56845.2. By March 1, 2001, the Governor's Office of Planning and Research, in consultation with the State Controller, shall convene a task force composed of representatives of cities, counties, special districts, and local agency formation commissions, as nominated by their statewide organizations and associations, with expertise in local government fiscal issues for the purpose of creating statewide guidelines for the incorporation process. The guidelines shall be completed by July 1, 2001, by the Office of Planning and Research and shall serve as minimum statewide guidelines for the incorporation process. The guidelines shall include, but not be limited to, information to assist incorporation proponents to understand the incorporation process, its timelines, and likely costs. They shall also provide direction to affected agencies regarding the type of information that should be included in the comprehensive fiscal analysis of an incorporation, as well as suggestions for alternative ways to achieve fiscally neutral incorporations. The guidelines shall be advisory to the commissions in the review of incorporation proposals.

RECOMMENDATION 4-12

The Commission recommends that if the fiscal data submitted to LAFCO for the comprehensive fiscal analysis is more than one year old or is otherwise disputed, the executive officer may request supplemental data or, in the case of the incorporation of a new city, initiate a dispute resolution process.

Draft Language:

The Commission believes that the accuracy of the data used for the comprehensive fiscal analysis is critical, but, recognizing that this is a matter of continuing negotiation between the League of Cities and CSAC, does not propose specific dispute resolution language. Any resolution agree-

able to both parties will likely be agreeable to the Commission. Two proposals, which are not mutually exclusive, have been put forth to resolve two types of CFA disputes. Either is acceptable to the Commission if both the League of Cities and CSAC are in agreement:

(1) Commission recommendation, pertaining to normal CFA data:

56833.1. For any proposal which includes an incorporation, the executive officer shall prepare, or cause to be prepared by contract, a comprehensive fiscal analysis. This analysis shall become part of the report required pursuant to Section 56833. Data used for the analysis shall be from the most recent fiscal year for which data are available preceding the issuance of the certificate of filing. When the data requested by the executive officer in the notice to affected agencies are unavailable, the executive officer may request supplemental data the analysis shall document the source and methodology of the data used. The analysis shall review and document each of the following: . . .

(2) Fiscal data dispute resolution language, such as that included in AB 1495 (proposed new GC §56845.1), pertaining to fiscal mitigation for revenue neutrality determinations for a new city incorporation

RECOMMENDATION 4-13

The Commission recommends that a statutory CEQA exemption be provided for a new incorporation. This recognizes that an act of incorporation constitutes only a political reorganization. Nevertheless, when the newly incorporated city adopts a general plan and zoning ordinances, these acts would not be exempt from CEQA.

Draft Language:

Add a new subsection to Public Resources Code Section 21080(b), which states: "this division does not apply to any of the following activities," as follows:

(16) Any decision by a local agency formation commission to approve the incorporation of a new city whether such incorporation occurs in a previously unincorporated area or as part of a special reorganization.

RECOMMENDATION 4-14

The Commission recommends that if proponents of a new incorporation or special reorganization have successfully gathered the requisite number of petition signatures and are unable to fund the cost of required LAFCO studies, they may apply to LAFCO for a fee waiver. LAFCO may reject the waiver request, approve the request and fund the study itself, or it may ask State funds to cover the cost of the studies. State funds, if provided, shall be in the form of a loan, to be repaid by the new city if the incorporation attempt is successful. If the incorporation is not successful, the loan must be forgiven.

Draft Language:

56383. (a) The commission may establish a schedule of fees for the costs of proceedings taken pursuant to this division, including, but not limited to, all of the following:

~~(1) Checking the sufficiency of any petition filed with the executive officer.~~

(2) ~~(1)~~ Filing and processing applications filed with the commission.

(3) ~~(2)~~ Proceedings undertaken by the commission and any reorganization committee.

~~(4) (3)~~ Amending a sphere of influence.

~~(5) (4)~~ Reconsidering a resolution making determinations.

(b) The schedule of fees shall not exceed the estimated reasonable cost of providing the service for which the fee is charged and shall be imposed pursuant to Section 66016.

(c) The commission may require that a fee be deposited with the executive officer before any further action is taken. The deposit of the fee shall be made within the time period specified by the commission. No petition shall be deemed filed until the fee has been deposited.

(d) The commission may waive the fee if it finds that payment would be detrimental to the public interest.

(e) For proceedings which have been initiated by the filing of a sufficient number of voter signatures on petitions that have been verified by the county registrar of voters, the commission may, upon the receipt of a certification by the proponents that they are unable to raise sufficient funds to reimburse fees for the proceedings, request from the State Controller a loan of an amount sufficient to cover such expenses. Repayment of the loan shall be made a condition of approval of the incorporation, if successful, and shall become an obligation of the newly formed city. Such repayment shall be made within two years of the effective date of incorporation.

RECOMMENDATION 4-15

The Commission recommends that procedures be clearly specified for special reorganizations, generally establishing the incorporation procedure as applicable.

Draft Language:

56656. Section 56656 is hereby repealed [creation of the Special Commission on Los Angeles Boundaries].

Section 56657 is hereby added, to read as follows:

56657. Proceedings for a special reorganization shall be conducted in accordance with the procedures otherwise prescribed for incorporation of a city, including, but not limited to, the provisions specified in sections 56375.1, 56833.1, 56842, and 56845. Notwithstanding any other provision of this division, an election, if required, shall be conducted in accordance with sections 57103.1 and 57132.5.

RECOMMENDATION 4-16

The Commission recommends that the Government Code be clarified to permit a proposed new city pursuant to a special reorganization to become a general law city with 5, 7, or 9 council members, elected by district.

Draft Language:

34880. (a) If the petition or proposal for incorporation or special reorganization of a city provides for the election of members of the leg-

islative body by (or from) districts and includes substantially the provisions required to be included in an ordinance providing for such election, including section 34871, the members of the legislative body shall be elected in the manner provided in the petition. (b) The members of the legislative body shall hold office until the next general municipal election. At the next general municipal election the members elected by or from the even-numbered districts shall hold office for four years and the members elected by or from the odd-numbered districts shall hold office for two years. Thereafter the term of office is four years.

Chapter 5

RECOMMENDATION 5-1

The Commission recommends that the §56001 be amended to declare that single purpose agencies have a legitimate role in local governance, while recognizing that multi-purpose agencies may be a better mechanism for establishing service priorities and that services should be provided by the local agencies which can best accommodate and provide necessary services.

Draft Language:

56001. The Legislature finds and declares that it is the policy of the state to encourage orderly growth and development which are essential to the social, fiscal, and economic well-being of the state. The Legislature recognizes that the logical formation and determination of local agency boundaries is an important factor in promoting orderly development and in balancing such development with sometimes competing state interests of discouraging urban sprawl, preserving open space and prime agricultural lands, and the efficient extension of government services. The Legislature further finds and declares that this policy should be effected by the logical formation and modification of the boundaries of local agencies, with a preference granted to accommodating additional growth within, or through the expansion of, the boundaries of those local agencies which can best accommodate and provide necessary governmental services in the most compact form.

The Legislature recognizes that urban population densities and intensive residential, commercial, and industrial development necessitate a broad spectrum and high level of community services and controls. The Legislature also recognizes that when areas become urbanized to the extent that they need the full range of community services, priorities are required to be established regarding the type and levels of services that the residents of an urban community need and desire; that community service priorities be established by weighing the total community service needs against the total financial resources available for securing community services; and that those community service priorities are required to reflect local circumstances, conditions, and limited financial resources. The Legislature finds and declares that a single multi-purpose governmental agency rather than several limited-purpose agencies, is in many cases better able to assess and be accountable for a wide range of community service needs and financial resources and, therefore, is may be the best mechanism for establishing community service priorities, especially in urban ar-

eas. Notwithstanding, the Legislature recognizes the critical role of many limited purpose agencies, especially in rural communities. The Legislature also finds that, whether governmental services are proposed to be provided by a single purpose agency, several agencies, or a multi-purpose agency, responsibility should be given to the agency or agencies that can best provide government services.

56301. Among the purposes of a commission are the discouragement of discouraging urban sprawl, preserving open space and prime agricultural lands, efficiently providing government services, and the encouragement of encouraging the orderly formation and development of local agencies based upon local conditions and circumstances. One of the objects of the commission is to make studies and to obtain and furnish information which will contribute to the logical and reasonable development of local agencies in each county and to shape the development of local agencies so as to advantageously provide for the present and future needs of each county and its communities. When the formation of a new government entity is proposed, a commission shall make a determination as to whether existing agencies can feasibly provide the needed service or services in a more efficient and accountable manner. If a new single-purpose agency is deemed necessary, the commission shall consider reorganization with other single-purpose agencies that provide related services.

56842.7 (NEW SECTION)

If a proposal includes the formation of a new government, the commission shall determine whether existing agencies can feasibly provide the needed service or services in a more efficient and accountable manner. If a new single-purpose agency is deemed necessary, the commission shall consider reorganization with other single-purpose agencies that provide related services.

RECOMMENDATION 5-2

The Commission recommends that the Cortese-Knox Act be reinforced as the sole authority for special district reorganization and that LAFCO rather than the county board of supervisors be designated as the conducting authority for proceedings for the formation of a special district, in accordance with the relevant principal act.

Draft Language:

56100. Except as otherwise provided in Section 56036, this division provides the sole and exclusive authority and procedure for the initiation, conduct, and completion of changes of organization and reorganization for cities and districts. On and after January 1, 1986, all All changes of organization and reorganizations shall be initiated, conducted, and completed in accordance with, and as provided in, this division. Notwithstanding any other provision of law, proceedings for the formation of a district shall be conducted as authorized by the principal act of the district proposed to be formed, except that the commission shall serve as the conducting authority and the procedural requirements of this division shall apply and shall prevail in the event of a conflict with the procedural requirements of the principal act of the district. In the event of such a conflict, the commission shall

specify the procedural requirements which apply, consistent with the requirements of this section.

RECOMMENDATION 5-3

The Commission recommends that, if no master property tax exchange agreement is in place, the county board of supervisors must consult with all affected independent special districts prior to conducting negotiations on their behalf regarding property tax exchange. Such consultation shall include, at a minimum, provision of written notification and an opportunity to comment.

Draft Language:

The following change could be made in Revenue & Taxation Code §99(b)(5):

99. (b)(5) In the event that a jurisdictional change would affect the service area or service responsibility of one or more special districts, the board of supervisors of the county or counties in which the districts are located shall, on behalf of the district or districts, negotiate any exchange of property tax revenues. Prior to entering into negotiation on behalf of a district for the exchange of property tax revenue, the board shall consult with the affected district. Such consultation shall include, at a minimum, notification to each member and executive officer of the district board of the pending consultation and provision of adequate opportunity to comment on the negotiation.

RECOMMENDATION 5-4

The Commission recommends that special district representation on LAFCO under §56332 and §56450 not be contingent upon the districts giving up their right to exercise latent powers. Those LAFCOs which already regulate their special districts' latent powers as a condition of membership should be required to repeal the relevant regulations, upon request of the Independent Special District Selection Committee. In addition, the Commission recommends moving the language in §56450 regarding review by LAFCO of the activation of a new power by an existing district to spheres of influence (§56425).

Draft Language:

56332. (a) The commission of any county shall be enlarged by two members if, pursuant to Chapter 5 (commencing with Section 56450), the commission of any county does both of the following:

- (1) Orders representation of special districts upon the commission;
- (2) Adopts regulations affecting the functions and services of special districts;

In addition to the commission members selected pursuant to Sections 56325, 56329, and 56330, two commission members shall be selected by an independent special district selection committee to represent special districts in the county, pursuant to section 56332.5.

(a)(b) The independent special district selection committee shall consist of the presiding officer of the legislative body of each independent

special district. However, if the presiding officer of an independent special district is unable to attend a meeting of the independent special district selection committee, the legislative body of the district may appoint one of its members to attend the meeting of the selection committee in the presiding officer's place. Those districts shall include districts located wholly within the county and those containing territory within the county representing 50 percent or more of the assessed value of taxable property of the district, as shown on the last equalized county assessment roll. Each member of the committee shall be entitled to one vote for each independent special district of which he or she is the presiding officer. Members representing a majority of the eligible districts shall constitute a quorum.

(b) ~~(c)~~ The executive officer shall call and give written notice of all meetings of the members of the selection committee. A meeting shall be called and held under either of the following circumstances:

(c) ~~(d)~~ Whenever a vacancy exists among the members or alternate members representing independent special districts upon the commission.

(d) ~~(e)~~ Upon receipt of a written request by one or more members of the selection committee representing districts having 10 percent or more of the assessed value of taxable property within the county, as shown on the last equalized county assessment roll.

(e) ~~(f)~~ If the executive officer determines that a meeting of the special district selection committee, for the purpose of selecting the special district representatives or for filling a vacancy, is not feasible, the executive officer may conduct the business of the committee in writing, as provided in this subdivision. The executive officer may call for nominations to be submitted in writing within 30 days. At the end of the nominating period, the executive officer shall prepare and deliver, or send by certified mail, to each independent special district one ballot and voting instructions. The ballot shall include the names of all nominees and the office for which each was nominated. The districts shall return the ballots to the executive officer by the date specified in the voting instructions, which date shall be at least 30 days from the date on which the executive officer mailed the ballots to the districts. Any ballot received by the executive officer after the specified date is invalid. The executive officer shall announce the results of the election within seven days of the specified date.

(f) ~~(g)~~ The selection committee shall appoint two regular members and one alternate member to the commission. The members so appointed shall be elected or appointed special district officers residing within the county but shall not be members of the legislative body of a city or county. If one of the regular district members is absent from a commission meeting or disqualifies himself or herself from participating in a meeting, the alternate district member may serve and vote in place of the regular district member for that meeting. The representation by a regular district member who is a special district officer shall not disqualify, or be cause for disqualification of, the member from acting on a proposal affecting the special district. The special district selection committee may, at the time it appoints a member or alternate, provide that the member or alternate is disqualified from voting on proposals affecting the district of which the member is a representative.

(g) ~~(h)~~ If the office of a regular district member becomes vacant, the alternate member may serve and vote in place of the former regular district member until the appointment and qualification of a regular

district member to fill the vacancy.

56332.5. The commission shall initiate proceedings for representation of special districts upon the commission. Those proceedings may be initiated either by the commission or by independent special districts within the county. If an independent special district adopts a resolution proposing representation of special districts upon the commission, it shall immediately forward a copy of the resolution to the executive officer. Upon receipt of those resolutions from a majority of independent special districts within a county, adopted by the districts within one year from the date that the first resolution was adopted, the commission, at its next regular meeting, shall adopt a resolution of intention. The resolution of intention shall state whether the proceedings are initiated by the commission or by an independent special district or districts, in which case, the names of those districts shall be set forth. The commission shall order the chairperson of the commission to call and give notice of a meeting of the independent special district selection committee to be held within 15 days after the adoption of the resolution in order to select special district representation on the commission pursuant to Section 56332.

56450. The commission may take proceedings pursuant to this chapter for the adoption, amendment, or repeal of regulations affecting the functions and services of special districts within the county; and for representation of special districts upon the commission. Those proceedings may be initiated either by the commission or by independent special districts within the county. ~~If those regulations are adopted and affect the functions or services provided or authorized to be provided by law by special districts within the county, then, so long as those regulations remain in effect, special districts shall be represented by members appointed to the commission. If the commission has representation from special districts prior to January 1, 2001, and if the commission has previously adopted regulations limiting the exercise of powers by its special districts as a condition of such representation, such regulations shall be repealed upon the request of a majority of independent special districts within the county.~~

56425. (a) In order to carry out its purposes and responsibilities for planning and shaping the logical and orderly development and coordination of local governmental agencies so as to advantageously provide for the present and future needs of the county and its communities, the commission shall develop and determine the sphere of influence of each local governmental agency within the county. In determining the sphere of influence of each local agency, the commission shall consider and prepare a written statement of its determinations with respect to each of the following:

- (1) The present and planned land uses in the area, including agricultural and open-space lands.
- (2) The present and probable need for public facilities and services in the area.
- (3) The present capacity of public facilities and adequacy of public services which the agency provides or is authorized to provide.
- (4) The existence of any social or economic communities of interest in the area if the commission determines that they are relevant to the agency.

(b) Upon determination of a sphere of influence, the commission shall

adopt that sphere, and shall periodically review and update the adopted sphere not less than every five years.

(c) The commission may recommend governmental reorganizations to particular agencies in the county, using the spheres of influence as the basis for those recommendations. Those recommendations shall be made available, upon request, to other agencies or to the public.

(d) Before approving any special district sphere of influence the commission shall do all of the following:

(1) Require existing districts to file written statements with the commission specifying the functions or classes of service provided by those districts.

(2) Establish the nature, location, and extent of any functions or classes of service provided by existing districts.

(3) Determine that, except as otherwise authorized by the regulations, no new or different function or class of service shall be provided by any existing district, except upon approval by the commission.

RECOMMENDATION 5-5

The Commission recommends that special districts be given the automatic option to select 2 LAFCO members, if requested by the special districts selection committee or a majority of the independent special districts in the county. There should be no requirement that they waive rights to exercise latent powers.

Draft Language:

See Recommendations 3-18 and 5-4 for statutory changes.

RECOMMENDATION 5-6

The Commission recommends that, where LAFCO approves a consolidation or dissolution of an agency and the action is not supported by the district or districts involved, that LAFCO may impose conditions which provide that the outgoing board may not take the following actions:

- (1) Approve increases in compensation or benefits for the Board of Directors or officers.
- (2) Appropriate or obligate any funds beyond the current year's revenues without making a finding of an emergency.

Draft Language:

56843.

(4) [NEW] with respect to any commission determination to approve the disincorporation of a city, the dissolution of a district, or the reorganization or consolidation of agencies which results in the dissolution of one or more districts or the disincorporation of one or more cities, a condition prohibiting an agency being dissolved from taking any of the following actions, unless it first finds that an emergency situation exists as defined in Government Code section 54956.5:

(A) approving any increase in compensation or benefits for members of the governing board, its officers or the executive officer of the agency; and

(B) appropriating, encumbering, expending, or otherwise obligating, any revenue of the agency beyond that provided in the current budget

at the time the dissolution is approved by the commission.

RECOMMENDATION 5-7

The Commission recommends that LAFCOs be authorized to enter into agreements with the LAFCOs of adjoining counties for the purpose of determining procedures for consideration of matters concerning multi-county districts.

Draft Language:

PROPOSED NEW SECTION 56375(s):

56375(s) To enter into an agreement with the commission for an adjoining county for the purpose of determining procedures for the consideration of proposals that may affect the adjoining county or where the jurisdiction of an affected agency crosses the boundary of the adjoining county.

RECOMMENDATION 5-8

The Commission recommends that notice be provided to all affected jurisdictions of multi-county proposals for changes of organization or reorganization under §56123.

Draft Language:

56123. Except as otherwise provided in Section 56124, if a proposed change of organization or a reorganization applies to two or more affected counties, for the purpose of this division, exclusive jurisdiction shall be vested in the ~~officers~~ commission of the principal county. Any notices, proceedings, orders, or any other acts authorized or required to be given, taken, or made by the commission, board of supervisors, clerk of a county, or any other county official, shall be given, taken, or made by the persons holding those offices in the principal county. The commission of the principal county must provide notice to the chair, each board member, and the executive officer of all affected agencies of any proceedings, actions or reports on the proposed change of organization or reorganization. Any officer of a county other than the principal county shall cooperate with the ~~officers~~ commission of the principal county and shall furnish the ~~officers~~ commission of the principal county with any certificates, records, or certified copies of records as may be necessary to enable the ~~officers~~ commission of the principal county to comply with this division.

56124. If a proposed change of organization or a reorganization applies to two or more affected counties, for purposes of this division, exclusive jurisdiction may be vested in the commission ~~officers~~ of an affected county other than the commission of the principal county if all of the following occur:

- (a) The commission of the principal county approves of having exclusive jurisdiction vested in the commission of another affected county.
- (b) The commission of the principal county designates the commission of the affected county which shall assume exclusive jurisdiction.
- (c) The commission of the affected county so designated agrees to assume exclusive jurisdiction. If exclusive jurisdiction is vested in the commission of an affected county other than the principal county

pursuant to this section, any notices, proceedings, orders, or any other acts authorized or required to be given, taken, or made by the commission, board of supervisors, clerk of a county, or any other officer of a county, shall be given, taken, or made by the persons holding those offices in the affected county. Any officer of a county other than the affected county shall cooperate with the ~~officers~~ commission of the affected county and shall furnish the ~~officers~~ commission of the affected county with any certificates, records, or certified copies of records as may be necessary to enable the ~~officers~~ commission of the affected county to comply with this division.

RECOMMENDATION 5-9

The Commission recommends that the State appoint a special blue ribbon commission to undertake a study of water governance in California. The purpose of such a commission is not to duplicate the work of existing agencies, but to examine the local governance structure for water delivery and to make specific recommendations for any necessary reform.

Draft Concept:

This commission, to be established by special legislation, would conduct a broad study of water governance. Some issues for possible consideration include:

- (i) Roles of various non-retail water authorities;
- (ii) Opportunities to coordinate the activities of water and wastewater agencies to enhance the supply and use of recycled water;
- (iii) The need to find some way to cope with the problems created by undercapitalized mutual water companies which are exempt from LAFCO authority;
- (iv) The proliferation of small providers without the capital or governance structure to cope with contemporary water quality regulations or even to maintain adequate fire flows; and
- (v) The need to rebuild the post-World War II infrastructure that dominates the water world of Southern California and the difficulty of raising necessary capital in the likely absence of state assistance.

The commission should be comprised of technical and policy experts in the field of water systems, but should also include ordinary citizens and public policy leaders in other fields who are affected by water governance but are not part of any water bureaucracy.

RECOMMENDATION 5-10

The Commission recommends that water supply considerations be integrated into LAFCO decision-making regarding boundary changes (annexations and spheres of influence).

Draft Language:

Amend GS §56841 as follows:

56841. Factors to be considered in the review of a proposal shall include, but not be limited to, all of the following:

....

(j) Availability of water supplies adequate for projected needs including, but not limited to, the information specified in section 65352.5.

Chapter 6

RECOMMENDATION 6-1

The Commission recommends that the definition in §56064 of “prime agricultural land” be amended to add clarity and permit the designation of lands of local economic significance.

Draft Language:

56064. “Prime agricultural land” means an area of land, whether a single parcel or contiguous parcels, which has not been developed for a use other than an agricultural use and which meets any of the following qualifications: (a) Land which, if irrigated, qualifies for rating as class I or class II in the ~~Soil Conservation~~ Natural Resource Service land use capability classification, whether or not the land is actually irrigated, provided that irrigation is feasible. (b) Land which qualifies for rating 80 through 100 Storie Index Rating. (c) Land which supports livestock used for the production of food and fiber and which has an annual carrying capacity equivalent to at least one animal unit per acre as defined by the United States Department of Agriculture in the National Handbook on Range and Related Grazing Lands, July, 1967, developed pursuant to Public Law 46, December 1935. (d) Land planted with fruit or nut-bearing trees, vines, bushes, or crops which have a nonbearing period of less than five years and which will return during the commercial bearing period on an annual basis from the production of unprocessed agricultural plant production not less than ~~two four~~ four hundred dollars (\$200) (\$400) per acre, as adjusted annually by a factor which is equal to the ratio obtained by dividing the consumer price index for January of the immediately preceding year by the consumer price index for January 1, 2000. (e) Land which has returned from the production of unprocessed agricultural plant products an annual gross value of not less than ~~two four~~ four hundred dollars (\$200) (\$400) per acre, as adjusted annually by a factor which is equal to the ratio obtained by dividing the consumer price index for January of the immediately preceding year by the consumer price index for January 1, 2000, for three of the previous five calendar years. (f) ~~Land which is used to maintain livestock for commercial purposes~~ Land which has been designated by the commission as agricultural land of local economic significance based upon the record and after a public hearing.

RECOMMENDATION 6-2

The Commission recommends that an additional policy and priority be included in §56377, providing that LAFCOs shall not approve a project that might lead to development of prime agricultural lands or open-space lands if there are other feasible alternatives to the proposal.

Draft Language:

56377. In reviewing and approving or disapproving proposals which

could reasonably be expected to induce, facilitate, or lead to the conversion of existing open-space lands to uses other than open-space uses, the commission shall consider all of the following policies and priorities:

(a) Development or use of land for other than open-space uses shall be guided away from existing prime agricultural lands in open-space use toward areas containing nonprime agricultural lands, unless that action would not promote the planned, orderly, efficient development of an area.

(b) Development of existing vacant or nonprime agricultural lands for urban uses within the existing jurisdiction of a local agency or within the sphere of influence of a local agency should be encouraged before any proposal is approved which would allow for or lead to the development of existing open-space lands for non-open-space uses which are outside of the existing jurisdiction of the local agency or outside of the existing sphere of influence of the local agency.

(c) Actions which would enable the change in use of existing prime agricultural lands or open space lands shall not be approved where feasible alternative locations for the development exist elsewhere within the existing jurisdiction or the sphere of influence of the existing jurisdiction on lands which are not prime agricultural lands and which are not open space lands that are dedicated or otherwise restricted to open space use.

RECOMMENDATION 6-3

The Commission recommends that a new definition be added to the Cortese-Knox Act for the term “urban limit line.”

Draft Language:

56079.5. “Urban Limit Line” or “Urban Growth Boundary” means any designated, delineated area that has been approved by the voters or the governing board of any local agency as a limit for existing and future urban facilities, utilities, and services.

RECOMMENDATION 6-4

The Commission recommends adding additional factors to be considered by LAFCO in §56841 to include the existence of an established urban limit line, alternative locations which could accommodate a proposal, and regional growth goals and policies already established by elected officials.

Draft Language:

56841. Factors to be considered in the review of a proposal shall include, but not be limited to, all of the following:

(a) Population, population density; land area . . .

....

(i) The comments of any affected local agency.

(j) Any urban limit line, urban growth boundary, or similar measure containing the spread of development that has been adopted by the voters or a local government legislative body.

(k) The existence of alternative locations within the already developed portions of the jurisdiction which could accommodate the projected

development needs.

(l) Regional growth goals and policies established by a collaboration of elected officials formally representing their local jurisdictions in an official capacity on a regional or sub-regional basis.

RECOMMENDATION 6-5

The Commission recommends that LAFCO be required to update spheres of influence at least every five years. Procedures for updating spheres should be the same as those for adopting spheres, with regard to public notice and hearing requirements.

Draft Language:

56425. (a) In order to carry out its purposes and responsibilities for planning and shaping the logical and orderly development and coordination of local governmental agencies so as to advantageously provide for the present and future needs of the county and its communities, the commission shall develop and determine the sphere of influence of each local governmental agency within the county. In determining the sphere of influence of each local agency, the commission shall consider and prepare a written statement of its determinations with respect to each of the following:

(1) The present and planned land uses in the area, including agricultural and open-space lands.

(2) The present and probable need for public facilities and services in the area.

(3) The present capacity of public facilities and adequacy of public services which the agency provides or is authorized to provide.

(4) The existence of any social or economic communities of interest in the area if the commission determines that they are relevant to the agency.

(b) Upon determination of a sphere of influence, the commission shall adopt that sphere, and shall ~~periodically~~ review and update the adopted sphere not less than once every 5 years.

(c) The commission may recommend governmental reorganizations to particular agencies in the county, using the spheres of influence as the basis for those recommendations. Those recommendations shall be made available, ~~upon request,~~ to other agencies or to the public. The commission shall make all reasonable efforts to ensure wide public dissemination.

(d) For any sphere of influence which includes a special district the commission shall do all of the following:

(1) Require existing districts to file written statements with the commission specifying the functions or classes of service provided by those districts.

(2) Establish the nature, location, and extent of any functions or classes of service provided by existing districts.

(3) Determine that, except as otherwise authorized by the regulations, no new or different function or class of service shall be provided by any existing district, except upon approval by the commission.

RECOMMENDATION 6-6

The Commission recommends that any extension of services for a public agency proposal (including service to a new school site) out-

side a city or special district be subject to LAFCO review under GC §56133, in the same manner as an extension of services under contract to a private party would be subject to LAFCO review.

Draft Language:

56133. A city or district may provide new or extended services by contract or agreement outside its jurisdictional boundaries only if it first requests and receives written approval from the commission in the affected county. The commission may authorize a city or district to provide new or extended services outside its jurisdictional boundaries but within its sphere of influence in anticipation of a later change of organization. ~~This section does not apply to contracts or agreements solely involving two or more public agencies.~~ This section does not apply to contracts for the transfer of nonpotable or nontreated water. This section does not apply to contracts or agreements solely involving the provision of surplus water to agricultural lands for projects that serve conservation purposes or that directly support agricultural industries. However, prior to extending surplus water service to any project that will support or induce development, the city or district shall first request and receive written approval from the commission in the affected county. This section shall not apply to an extended service that a city or district was providing on January 1, 1994. This section does not apply to a local publicly owned electric utility, as defined by Section 9604 of the Public Utilities Code, providing electric services, which do not involve the acquisition, construction, or installation of electric distribution facilities by the local publicly owned electric utility, outside of the utility's jurisdictional boundaries.

RECOMMENDATION 6-7

The Commission recommends that LAFCOs be required to periodically initiate service reviews of services provided within the county. A service review is defined as an independent county-wide or sub-regional, as appropriate to the service, review by LAFCO of public services offered by various local governments. The review should be done in conjunction with any update of spheres of influence. A service review should not replace designations and updates of spheres of influence, but should be conducted in the establishment or amendment of any spheres. It is the intent of the Commission that this function be considered a state mandate because of the benefits for achieving a logical extension of local services to meet California's future growth and development.

Draft Language:

Section 56430 is added, to read as follows:

56430. (a) In order to prepare and to update spheres of influence in accordance with section 56425, the commission shall conduct a service review of the municipal services provided in the county or other appropriate area designated by the commission. The commission shall include in the area designated for service review the county, the region, the sub-region, or such other geographic area as is appropriate for an analysis of the service or services to be reviewed, and shall prepare a written statement of its determinations with respect to each of the following:

- (1) infrastructure needs or deficiencies;
 - (2) growth and population projections for the affected area;
 - (3) financing constraints and opportunities;
 - (4) cost avoidance opportunities;
 - (5) opportunities for rate restructuring;
 - (6) opportunities for shared facilities;
 - (7) government structure options, including advantages and disadvantages of consolidation or reorganization of service providers;
 - (8) evaluation of management efficiencies; and
 - (9) local accountability and governance.
- (b) In conducting a service review, the commission shall comprehensively review all of the agencies that provide the identified service or services within the designated geographic area.
- (c) The commission shall conduct a service review before, or in conjunction with, but no later than the time it is considering an action to establish a sphere of influence in accordance with section 56425 or section 56426.5 or to update a sphere of influence pursuant to section 56425.
- (d) Not later than January 1, 2001, the Office of Planning and Research, in consultation with commissions, the California Association of Local Agency Formation Commissions, and other local governments, shall prepare guidelines for the service reviews to be conducted by commissions pursuant to this section.

RECOMMENDATION 6-8

The Commission recommends that LAFCO approval be required for extension of major "backbone" (i.e., water, sewer, wastewater, or roads) infrastructure to previously undeveloped or underdeveloped areas, either in an incorporated or an unincorporated area. LAFCO should review and approve a finding of general plan consistency for such a proposal in a city. In an unincorporated area, it should approve a special district sphere of influence amendment or a newly-defined "community growth plan" if the area is an unincorporated community. Specific criteria should be established to define an area requiring such approval.

Draft Language:

56375. The commission shall have all of the following powers and duties subject to any limitations upon its jurisdiction set forth in this part:

....

(t) To require establishment of a community growth plan, in the case of an unincorporated area, or to review the consistency of a proposal with a city's general plan when a proposed action would require the extension of critical services, as specified in Section 56430.

Add to the Government Code, Section 56430:

(a) Any city or county or district decision which (1) approves or authorizes or commits to an extension of any of the following basic public works infrastructure: water supply, sewer, wastewater, or roads, where such infrastructure would serve a project meeting the criteria in subsection (b), or (2) approves development which will require such an extension of basic public works infrastructure, or (3) approves or authorizes action by another person or entity for such an extension of

infrastructure, shall not be effective unless reviewed and approved, following a public hearing, by the commission, as follows:

i. For a county unincorporated area, based upon establishment of a “community growth plan” defining the anticipated growth and service needs for the affected area, evaluated pursuant to the provisions of section 56425.

ii. For a special district, a new or amended sphere of influence, evaluated pursuant to the provisions of section 56425.

iii. For a city, concurrence in a finding by the legislative body of consistency of the proposed project with the general plan.

(b) To be subject to review and approval by the commission pursuant to paragraph (a) of this section, a proposal must have the potential for causing significant effects on the orderly extension of governmental services by meeting any one of the following criteria:

(1) A proposed residential development of more than 500 dwelling units.

(2) A proposed shopping center or business establishment employing more than 1,000 persons or encompassing more than 500,000 square feet of floor space.

(3) A proposed commercial office building or buildings employing more than 1,000 persons or encompassing more than 250,000 square feet of floor space.

(4) A proposed hotel/motel development of more than 500 rooms.

(5) A proposed industrial, manufacturing, or processing plant, or industrial park planned to house more than 1,000 persons, occupying more than 40 acres of land, or encompassing more than 650,000 square feet of floor space.

(6) A proposed institutional use for public or private purposes which would satisfy the equivalent of any of the above numerical criteria.

(7) A proposed mixed use development for public or private purposes which would satisfy the equivalent of any of the above numerical criteria.

(c) The provisions of subsection (a) shall also apply to any series of decisions within any one-year period which in the aggregate will be equivalent to the criteria in subsection (b).

Add to the Government Code, Section 56028.5:

56028.5. “Community growth plan” means a plan for the probable physical boundaries and extent and intensity of growth for an unincorporated community area, as determined by the commission pursuant to a proposal by the county to extend or expand infrastructure to such area.

Chapter 7

RECOMMENDATION 7-1

The Commission recommends that the Legislature establish a task force to identify needed or recommended structural changes in California state and local governance to improve government accountability, representativeness, efficiency, and effectiveness in delivering public services and responding to broad-scale public needs, and to recommend statutory and constitutional changes, as appropriate.

RECOMMENDATION 7-2

The Commission recommends that the State develop incentives to encourage compatibility and coordination of plans and actions of all local agencies, including school districts, within each region as a way to encourage an integrated approach to public service delivery and improve overall governance. State infrastructure financing programs should create incentives that further State growth planning goals and priorities, and all State policies, regulations, and programs should be implemented in a manner consistent with these goals. LAFCO policies should be revised, as necessary, to support growth planning goals.

RECOMMENDATION 7-3

The Commission recommends that the point-of-sale allocation of the sales tax be revised to mitigate its effect as an incentive for “fiscalization of land use” and that the allocation of property taxes be increased to more completely fund property-related services. Any changes to existing tax allocations should be phased-in over a limited period of time and all units of local government should be held harmless by the initial reallocation plan.

RECOMMENDATION 7-4

The Commission recommends that fiscal reform negotiations between the State and representatives of local governments begin immediately and that provision for a comprehensive State-local fiscal realignment be amended into the California Constitution, guaranteeing an adequate and permanent local revenue source to provide local services.

RECOMMENDATION 7-5

The Commission recommends that county tax collectors be required to itemize in each property tax bill the agency which receives funds, including the county-wide 1 percent allocation, and the responsible taxing authority for imposition of the tax.

RECOMMENDATION 7-6

The Commission recommends that any proposal for modification of State and local government financing must include a legally adequate commitment by the State to continually and adequately fund its obligation to local government for State mandated costs. In furtherance of this recommendation, the Commission finds as follows:

- (a) Meaningful State and local government financing modifications to ensure adequate financing availability for local government can only be assured if the State acknowledges and legally confirms its constitutional obligation to reimburse local government for the full costs associated with State mandates that have been imposed on local government.
- (b) For over 20 years, the State has consistently avoided any on-going, periodic and legally binding commitment to provide funds for reimbursement for State mandated costs imposed on local government. Any reallocation of revenue sources for local government to ensure the stability of local government financing

as well as the extent of its availability must include a legally binding commitment by the State to reimburse local government for State mandated costs.

Chapter 8

RECOMMENDATION 8-1

The Commission recommends that public notice requirements within the Cortese-Knox Act be strengthened.

Draft Language:

56835. To the extent that the commission maintains an Internet web site, notice of all public hearings shall be made available in electronic format on that site. The executive officer shall also give mailed notice of any hearing by the commission, as provided in section 56155 to 56157, inclusive, by mailing notice of the hearing or transmitting via electronic mail if available to the recipient, to all of the following entities:

(a) Each affected local agency, by giving notice to each elected local official, each member of the governing body, and the executive officer of the agency.

(b) To the chief petitioners, if any.

(c) Each person that has filed a written request for notice with the executive officer.

(d) If the proposal is for any annexation or detachment, or for a reorganization providing for the formation of a new district, to each city within three miles of the exterior boundaries of the territory proposed to be annexed, detached or formed into a new district.

(e) If the proposal is to incorporate a new city or for the formation of a district, to the affected county.

(f) If the proposal includes the formation of, or annexation of territory to a fire protection district formed pursuant to the Fire Protection District Law of 1987, Part 3 (commencing with Section 13800) of Division 12 of the Health and Safety Code, and all or part of the affected territory has been classified as a state responsibility area, to the Director of Forestry and Fire Protection.

(g) If the proposal would result in the annexation to a city of land that is subject to a contract executed pursuant to the Williamson Act (Chapter 7 (commencing with Section 51200) of Division 1), to the Director of Conservation.

(h) To all registered voters and owners of property, as shown on the latest equalized assessment roll, within 300 feet of the exterior boundary of the property that is the subject of the hearing at least 20 days prior to the hearing. In lieu of the assessment roll, the agency may use the records of the county assessor or tax collector or any other more current record. Notice must also either be posted or published in one newspaper 20 days prior to the hearing. If this section would require more than 1,000 notices to be mailed, then notice may instead be provided pursuant to Government Code Section 65954.6(b)(1).

56150. Unless the provision or context otherwise requires, whenever this division requires notice to be published, posted, or mailed, the notice shall be published, posted or mailed as provided in this chapter. Unless the provision or context otherwise requires, whenever this division requires notice to be given that notice shall also be given in

electronic format on a web site provided by the commission, to the extent that the commission maintains such a web site.

56154. If the published notice is a notice of a hearing, publication of the notice shall be commenced at least ~~15~~ 20 days prior to the date specified in the notice of the hearing.

56156. If the mailed notice is notice of a hearing, the notice shall be mailed at least ~~15~~ 20 days prior to the date specified in the notice for hearing.

RECOMMENDATION 8-2

The Commission recommends that all local agency formation commissions establish and maintain an Internet website not later than January 1, 2002.

Draft Language:

Add a new paragraph to Section 56300 (to be added at end):

On or before January 1, 2002, the commission shall establish and maintain, or otherwise provide access to an internet website for the purpose of posting notices and other commission information for the public.

The written policies and procedures adopted by the commission shall require that, to the extent that the commission maintains an internet web site, notice of all public hearings and commission meetings shall be made available in electronic format on that site.